



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,346	09/13/2004	George Manak	76385.0015	5345
29052 7590 10/13/2010 SUTHERLAND ASBILL & BRENNAN LLP 999 PEACHTREE STREET, N.E. ATLANTA, GA 30309				
EXAMINER				
TRAN LIEN, THUY				
ART UNIT		PAPER NUMBER		
1789				
MAIL DATE		DELIVERY MODE		
10/13/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/711,346

Applicant(s)

MANAK ET AL.

Examiner

Lien T. Tran

Art Unit

1789

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-26 and 28-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18 is/are allowed.
- 6) ☒ Claim(s) 15-16, 19-23, 26, 28-34 is/are rejected.
- 7) ☒ Claim(s) 17, 24, 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notes of Informal Patent Application~~
- 6) ☐ Other: _____

The 112 second paragraph is hereby withdrawn due to the amendment filed on 8/18/10.

Claims 15-16, 19-23,26,28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stevens et al in view of Cross.

Stevens et al disclose a system comprising an extruder for extruding a mixture, a segmenter for cutting the extrudate, a drier for drying the segments, a mill for milling to provide granules, a sieve for screening and sorting the granules. The system also can include a mixer to make an extrudable mixture. The segmenting is achieved by using a cutting means which can be a wire or knife. The segmenter is a knife attached to the outlet of the extruder. The dryer can be a fluid bed dryer and the extruder can be heated. (see columns 4-5)

The segmenter in Stevens et al system is attached to the extruder as shown in example 2 and in applicant's response filed on 8/18/10. Thus, Stevens et al disclose an extruder comprising a cutter attached thereto. Stevens et al also disclose a mill that is separate from the extruder; the mill breaks the segments into particles; this is equivalent to the claimed comminuting device comprising a further cutter or a cutting station separate from the extruder or means for cutting separate from the extruder. Paragraph 54 of the instant specification discloses the further cutter shreds the loaves into crumbs; this is the same function as the mill in Stevens et al. The sieve is equivalent to the claimed sizing device.

Stevens et al do not disclose a second dryer downstream of the comminuting device, a tempering chamber, plurality of pneumatic conveying lines , bypassing lines and the rate of cutting as claimed.

Cross discloses a system for making snack product. The system comprises a pre-conditioner, and extruder, a first dryer, a first cyclone separator, a second cyclone separator, a conveyor assembly and a spraying mechanism. When the use of a second drying apparatus is not feasible, the product can be returned to the first drying apparatus for further drying. The system comprises two cyclone separators, any apparatus capable of pneumatically transferring and thus agitating the material can be used. The pieces are pneumatically transferred.

It would have been obvious to one skilled in the art to include a second dryer as taught by Cross in the Stevens et al system when it is desired to further dry the granular product. Adding additional dryer depends on the type of end product made and the moisture content wanted for that product. It would have been obvious to place the dryer downstream or after the cutter when the purpose of the additional dryer is to further dry the granular product in the Stevens et al system. Stevens et al already teach a dryer for drying the segmented product. Determination of the placement of additional dryer depending on the moisture wanted for the final product would have been a result-effective variable that is well within the determination of one skilled in the art. It would also have been obvious to include a cyclone separator as taught by Cross to enable the separation of unwanted material ; one would have been motivated to add the separator to obtain a purer end product. The placement of the particular device in the system

depends on what is deemed convenient and the type of product made. This placement can readily be determined by one skilled in the art without undue experimentation. It would have been obvious to by-pass the second cutter or grinder depending on the ultimate size of the end product desired. It would have been obvious to use pneumatical transfer as taught by Cross to facilitate the transferring process. It would have been within the skilled of one in the art to determine the cutting rate that is most optimum for the product being made. Such parameter is a result-effective variable which can be determined through routine experimentation.

Claims 17, 24 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 18 is free of prior art. Applicant's argument is persuasive with respect to the inclusion of a grinder downstream of a second dryer. There is no disclosure or suggestion to add a grinder to the Stevens' system. There is no disclosure or suggestion in Stevens et al to have a comminuting device to have a first cutter for coarse cutting and a second cutter for fine cutting as in claim 17.

In the response filed on 8/18/10, applicant comments on the amendment and shows that the extruder in Stevens comprises a cutter; thus, there is no motivation to incorporate the Cross and Huber et al references. The ground of rejection is changed as explained above; the Huber et al is no longer used and the Cross reference is used to show features other than an extruder comprising a cutter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 12, 2010

/Lien T Tran/

Primary Examiner, Art Unit 1789